

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
CENTRAL DIVISION

UNITED STATES OF AMERICA,

CR 22-30100-RAL

Plaintiff,

REDACTED

FACTUAL BASIS STATEMENT

vs.

DAVID PAXTON,

Defendant.

Defendant states that the following facts are true, and the parties agree that they establish a factual basis for the offense to which Defendant is pleading guilty pursuant to Fed. R. Crim. P. 11(b)(3):

On or about between the 24th day of August, 2017, and the 31st day of July, 2021, in Todd County, in Indian country, in the District of South Dakota, the defendant, David Paxton, did knowingly engage in, and attempt to engage in, sexual contact with [Name Redacted], an Indian, and a child who had not attained the age of 12 years, in violation of 18 U.S.C. §§ 1152, 2244(a)(5), and 2246(3).

At all times relevant to the Indictment, [Name Redacted] (hereinafter the "Child") resided primarily with her mother, but periodically visited the Defendant's residence in Todd County, South Dakota.

On at least one occasion between August 24, 2017, and July 31, 2023, the Defendant engaged in a sexual act with the Child, by touching the Child's

genitalia under the clothing with his hands, with the intent to arouse and gratify his sexual desires.

On January 24, 2022, the Child was forensically interviewed at Child's Voice, Sanford Children's Hospital, in Sioux Falls, South Dakota. She disclosed that the Defendant touched her vaginal area on more than one occasion while she was between the ages of 5 and 8. The Child described an incident where the Defendant touched her vagina under her clothes and said to her, "do you like that, baby?" The Child described another incident when she was taking a nap on her grandmother's bed. The Defendant laid down next to her on the bed and took her hand and put it on his penis over his clothes. She pulled away but the Defendant grabbed her hand and put it back on his penis.

At all times relevant to the offense, the Child was a minor, with a date of birth of [Date Redacted]. She was between approximately five (5) and eight (8) years old at the time of the offense and the Defendant knew she was between eight and nine years old. The Defendant was between approximately sixty-four (64) and sixty-eight (68) years old at the time of the offense with a date of birth of [Date Redacted].


The Defendant had no excuse or legal justification for committing Abusive Sexual Contact With a Child. He was able to appreciate the nature and wrongfulness of his actions at the time of the offense, and he could have avoided committing Abusive Sexual Contact With a Child if he had wanted to. The Defendant knew his actions were unlawful and he undertook them intentionally and voluntarily.

The Child is an "Indian" under the provisions of 18 U.S.C. § 1152 in that she is eligible to be an enrolled member of the Rosebud Sioux Tribe, a federally recognized tribe. The Defendant is not a tribal member and is a non-Indian. The offense occurred in Todd County, South Dakota, which is within the exterior boundaries of the Rosebud Sioux Indian Reservation. This location is "Indian country" within the provisions of 18 U.S.C. §§ 1151 and 1153.

ALISON J. RAMSDELL
United States Attorney

12/8/2023

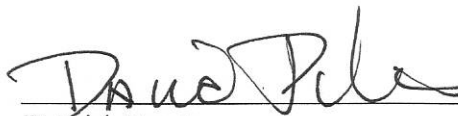
Date



Kirk W. Albertson
Assistant U.S. Attorney
225 S. Pierre Street, # 337
Pierre, SD 57501
Telephone: (605) 224-5402
Facsimile: (605) 224-8305
E-Mail: kirk.albertson@usdoj.gov

12/15/2023

Date



David Paxton
Defendant

12/15/23

Date



Robert T. Konrad
Attorney for Defendant